

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GASNER RACINE and JOCELYNE VASQUEZ,

Plaintiffs,

CV-12-

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK  
**DEARIE, J.**

-against-

COMPLAINT

**ORENSTEIN, M.J.**

CENTRAL FUNDING COMPANY and  
COLUMBIA CAPITAL CO.,

**CV 12 - 4745**

Defendants.  
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Plaintiffs, by their attorneys, MENEZ JEAN-JEROME, ESQ., complaining of the  
Defendants, respectfully allege as follows:

PARTIES

1. The plaintiffs are citizens of the State of New York, and own real property in the City of New York, County of Kings
2. The defendants, CENTRAL FUNDING COMPANY and COLUMBIA CAPITAL CO., are banking corporations sanctioned by the laws of the State of New York.

JURISDICTION

3. This Court has jurisdiction over the claims pursuant to 28 U.S.C. 1332 in this action between the plaintiffs are citizens of the State of New York, and the amount in controversy exceeds \$75,000.00
4. The Court has personal jurisdiction over the defendants, as New York Banking corporations doing business in New York.

VENUE

5. Venue is proper in this District because a property that is subject of this action is located in this District, pursuant to 28 U.S.C. 1391 (a)(3).

FACTS

6. The plaintiffs, Gasner and Jocelyne Vasquez are owners of the premises known as 1088-1092 Utica Avenue, Brooklyn, New York and 152 West Bartlett Rd., Middle Island, New York, which are the subject of this action

7. The defendants, CENTRAL FUNDING COMPANY and COLUMBIA CAPITAL CO., own a \$450,000.00 mortgage and \$75,000.00 second mortgage assignment on the above premises.

8. On or about June 30, 2001, the plaintiff Gasner Racine entered into a five year lease of the premises known as 1088-1092 Utica Avenue, Brooklyn, New York with option to buy.

9. On or about May 2004, the lessor HARY HOLDING CORP., in order to help the plaintiff Gasner Racine exercise his right to purchase, arranged a purchase money mortgage through the defendants CENTRAL FUNDING COMPANY and COLUMBIA CAPITAL CO. and gave the plaintiffs a second mortgage in the amount of \$75,000.00 which he later assigned to the defendants.

10. Defendants asked the plaintiffs to include their residential property of 152 West

Bartlett Rd., Middle Island, New York as additional security.

11. On or about May 25, 2004, the day of closing, plaintiffs had to pay the unexpected sum of \$45,457.82 to Judicial Title Insurance that did nothing to inform plaintiffs that the premises they were buying for a restaurant did not have a proper certificate of occupancy, but had only a warehouse certificate.

12. Plaintiffs started operating their business as Café Alta Inc. but saw the City of New York Department of Building closed their operation resulting in a delinquency on their mortgage.

13. Defendants accelerated the payment of the loan, added over \$1,000,000.00 interest through a mortgage foreclosure resulting from defendants' own failures and want to sell plaintiffs' residential home.

14. Defendants failed to give plaintiffs the disclosure required by Title 15 of the United States Code, Chapter 41 on Consumer Credit Cost Protection. Defendants had legal knowledge and controlled the loan transaction, chose their title company and had an attorney for the plaintiffs on the day of closing.

15. The plaintiffs would not have exposed their residential property in the purchase of a business place likely to be closed for lack of a proper certificate of occupancy nor would they have invested over \$200,000.00 toward a certificate of occupancy. The plaintiffs would not have contracted additional debts to complete a closing of a loan without knowing the credit cost if they had proper disclosure and legal advice.

16. Defendants have violated plaintiffs constitutional rights by seeking to deprive them of their property without due process of law.


18. This case is about a credit transaction in which a security interest was acquired in real property used as the principal dwelling of the consumer, according to 15 U.S.C. 1603 (3). Defendants' claim that a commercial loan did not need disclosure cannot apply to the present case

21. Defendants CENTRAL FUNDING COMPANY and COLUMBIA CAPITAL CO., by violating plaintiffs' rights under the U.S. Constitution and under Title 15 on Commerce and Trade have caused plaintiffs damages in the amount of Three Million (\$3,000,000.00) Dollars.

WHEREFORE, the plaintiffs demand judgment:

- (1) declaring the defendants in violation of plaintiffs' rights under the U.S. Constitution and Title 15 of U.S. Code.
- (2) Enjoining defendants from selling plaintiffs' premises described in this action;
- (3) Granting plaintiffs a money judgment against defendants CENTRAL FUNDING COMPANY and COLUMBIA CAPITAL CO. in the amount of \$3,000,000.00 .

Dated: Brooklyn, New York  
September 21, 2012

  
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EASTERN DISTRICT OF NEW YORK

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Plaintiffs,

-against-

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Defendants.

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**SUMMONS AND COMPLAINT**

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Attorney for Plaintiffs

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